**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**

Crl. Revn. No. 1114 of 2006

DATE OF DECISION : 09.01.2007

Jagir Singh and another

**....** PETITIONERS

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. R.K. Joshi, Advocate,
for the petitioners.

Mr. N.S. Gill, AAG, Punjab.

* * *

Petitioners Jagir Singh and his wife Surinder Kaur have filed this revision petition against the order dated 19.4.2006, passed by Chief Judicial Magistrate, Amritsar, whereby charge under Sections 120-B/420 IPC has been framed against them in case FIR no. 309 dated 9.10.2001 registered at Police Station Civil Lines, District Amritsar.

**2.** I have heard counsel for the parties and gone through the contents of the FIR as well as the impugned order.

**3.** In this case, it has been alleged that all the accused in conspiracy with each other prepared a general power of attorney on 9.12.1992 in favour of petitioner Jagir Singh who on the basis of the said general power of attorney sold the property in question to his wife Smt. Surinder Kaur-petitioner No.2 vide registered sale deed dated 21.12.1992. Thereafter, she further sold the same property to the complainant on 11.2.1993 for a consideration of Rs. 68,000/-. The said property was pledged with the bank and this fact was never disclosed, though it was in the knowledge of the petitioners. The property which was having encumbrance was sold to the complainant with intention to cheat her. After

investigation, the challan was filed. On the basis of the material collected during the investigation, charge was framed against the petitioners.

**4.** Counsel for the petitioners, while referring to certain documents, which came into existence subsequently, wants to submit that the property was free from all encumbrances, as the entire loan was paid by the LRs of the original owner. In my opinion, the factum of payment of loan is a dispute question of fact, which allegedly came into existence subsequently and on the basis of such disputed question of fact, at this stage, the order of charge cannot be set aside. As far as civil court decree obtained by the complainant is concerned, it was passed in the suit for permanent injunction restraining the defendants, including petitioner No.2 from alienating, selling or mortgaging the property purchased by her. The said decree, in my opinion, will not advance the case of the petitioner for quashing the charge. Thus, I do not find any ground to set aside the impugned order of framing charge against the petitioners.

**5.** Dismissed.

**January 09, 2007** **( SATISH KUMAR MITTAL )**
ndj **JUDGE**